

REMARKS

The Office Action mailed April 20, 2005 has been carefully reviewed along with the references cited therein. In the Office Action, the Examiner objected to claim 22 due to minor informalities. The Examiner rejected claims 17 and 20 under 35 U.S.C. § 102(b) as being anticipated by Cope (U.S. Patent No. 6,022,056). Claims 1 and 3-8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cope in view of Frolov (U.S. Patent No. 6,082,791). The Examiner indicated that claims 9-16, 21 and 22 were allowed. Claims 2 and 19 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant appreciates the indication of allowable subject matter.

Claim 22 has been amended in accordance with the Examiner's suggestions.

As for the anticipation rejection, the Examiner argued that Cope teaches that the combination of the "spring latch bolt actuator" 52, 64 and the "latch bolt pin actuator" 54 substantially cover the latch opening in opening. FIGURE 8 of Cope shows a strike plate 40 having an opening 38 that registers with a latch cavity 36. See col. 7, lines 12-14. A spring latch plunger 52 and a dead latch plunger 54 do not in combination at least substantially cover the entire latch opening, as recited in claim 17. This is also apparent in FIGURES 10a-10c. Applicant recognized that a door latch actuator that includes components that can at least substantially cover the entire latch opening inhibits either the spring latch bolt of the latch bolt pin of the deadlatch lock assembly from getting caught in the latch opening as the door is being opened. See page 14 lines 28 – 30 of the subject application. Cope does not disclose each limitation recited in claim 17, and therefore fails to anticipate claim 17. Accordingly, claim 17 and those that depend from it patentably define over the cited reference.

As for claim 18, the Examiner did not provide a rejection for this claim. Accordingly, Applicant would appreciate that the Examiner indicate whether he has found this claim to be allowable.

As for the obviousness rejection, the Examiner argued that Cope provides a bias to project the spring latch actuator into the latch opening and that Frolov teaches that it is well known to modify a releasable strike to be in either a fail-safe or fail-secure mode. Therefore, according to the Examiner, it would have been obvious to one skilled in the art to reverse the spring bias of Cope to provide for the spring latch bolt actuator being biased away from the strike opening to provide a strike opening to allow for a latchbolt being retained in the striker in the event of a power loss. Cope discloses a spring 70 that biases the spring latch plunger 52 into an extended position, i.e. towards the latch opening. "The force provided by spring 70, however, is less than the force that biases spring latch bolt 32 into the engage position. Therefore, the force of spring latch bolt 32 will overcome the biasing of spring latch plunger 52 so as to cause spring latch plunger 52 to move into the retracted position when spring latch bolt 32 is received in cavity 36." Col. 7, lines 50-54. Cope already provides a mechanism to provide a strike opening to allow for a latchbolt being retained in the striker in the event of a power loss, i.e. by having the spring 70 provide a resilient force that is less than the force that biases spring latch bolt 32 into the engage position. Since Cope already provides a mechanism to provide a strike opening to allow for a latchbolt being retained in the striker in the event of a power loss, one would not be motivated to modify Cope such that the spring latch plunger 52 is biased away from the latch opening to provide for such a mechanism.

Furthermore, Cope states "that spring latch plunger 52 will remain in the extended position, due to the resilient biasing of spring 70, until the door again is moved into the closed position so that the biasing force of spring 70 is overcome by the spring latch bolt 32." Col. 10, lines 17-23. Modifying the spring latch plunger such that it is biased away from the latch opening would destroy the intended function of the Cope assembly, which, as shown above, is to have the spring latch plunger 52 remain in the extended position until the door is moved into the closed position.

Also Cope provides magnets 140 positioned on the spring latch plunger 52 that communicate with a Hall effect sensor 134 the latch to control and monitor the system. Biasing the spring latch plunger 52 away from the latch opening, as opposed to towards

the latch opening as disclosed in Cope, may effect the workings of the control system. For at least the reasons explained above, Applicant submits that it would not have been obvious to modify Cope such that the spring latch plunger 52 is biased away from the latch opening. Accordingly, the Examiner has failed to establish a prima facie case for obviousness. Therefore, Applicant respectfully requests that the Examiner remove the obviousness rejection.

The Examiner apparently rejected claims 3 and 4 under the same reasoning as applied with regard to claim 1. Applicant respectfully argues that one skilled in the art would not modify Cope to include a latch bolt pin biasing member. The location of the dead latch plunger 54 is controlled by a pin 104 moving in a slot 110. A biasing member would not be able to overcome the force provided by the pin 104, which is connected to motor 86 through a transmission. Accordingly, a biasing member for the dead latch plunger 54 would serve no function and therefore one would not modify Cope to include such a dead latch plunger.

The Examiner rejected claim 5, but he gave no explanation as to which reference discloses a spring latch bolt actuator that includes a surface adapted to be received in the latch opening such that the surface is adjacent at least substantially an entire length of three sides of the latch opening. Applicant respectfully asserts that, as seen in FIGURE 8 of Cope, Cope fails to disclose that its spring latch plunger includes a surface that is adjacent at least substantially an entire length of three sides of the latch opening 38.

The Examiner also rejected claim 6, but he gave no explanation as to which reference discloses a spring latch bolt actuator that includes a surface adapted to cover substantially the entire latch opening. Applicant respectfully asserts that, as seen in FIGURE 8 of Cope, Cope fails to disclose that the spring latch plunger includes a surface adapted to cover substantially the entire latch opening.

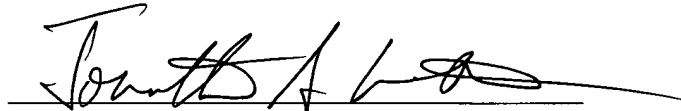
CONCLUSION

For the reasons detailed above, it is submitted that all claims remaining in the application are now in condition for allowance. Accordingly, an early indication of the same is earnestly solicited. In any event, should the Examiner consider personal contact advantageous to the disposition of this case, he is encouraged to telephone the undersigned at the number listed below.

Respectfully submitted,

FAY, SHARPE, FAGAN,
MINNICH & McKEE, LLP

July 19, 2005
Date

A handwritten signature in black ink, appearing to read "Jonathan A. Withrow", is written over a horizontal line.

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